

REMARKS

The following remarks are prepared in response to the Office Action of January 5, 2007. Claims 28-31 and 34-54 are pending in this application, after entry of this amendment. Claim 46 has been amended. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. §103(a)

Claims 28-31 and 34-54 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Smethers* (*Smethers* reference, U.S. Patent No. 6,463,304) in view of *Bridle et al.* (*Bridle* reference, U.S. Patent No. 6,163,680). Applicant respectfully traverses this rejection.

It should be noted that the burden of establishing a *prima facie* case of obviousness lies with the Patent Office. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988) (stating: “The PTO has the burden under section 103 to establish a *prima facie* case of obviousness”). To establish a *prima facie* case of obviousness, (1) there must be some suggestion or motivation (either in the references themselves or in the knowledge generally available to one of ordinary skill in the art) to combine the reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference must teach or suggest all the claim limitations. See *MPEP* §§ 2142-43.

The invention relates to a transceiver that allows for two-way private communication without the use of an intermediate network. The transceiver can be an initiator or a recipient of the communication. The transceiver has a control device or processor configured, as an initiator transceiver, to transmit call initiate information having at least one recipient identification code retrieved from memory, to at least one recipient transceiver, each identified by its own identification code. Each recipient transceiver determines whether the recipient identification code is identical to its identification code, and transmits acknowledgement information to the

initiator transceiver if they are identical. The initiator transceiver receives acknowledgement information from the recipient transceiver selected from the at least one recipient transceiver that has an identification code that is identical to the recipient identification code, and transmits data to the recipient transceiver.

Independent Claim 28

Independent claim 28 recites “[a] half-duplex communication device identified by an initiator identification code comprising:

a control device to

[A] receive an identification code stored in memory,

[B] transmit the initiator identification code and the identification code directly to a transceiver identified by a transceiver identification code without the use of an intermediate network, and

[C] receive acknowledgment information in response to the transceiver determining that the identification code matches the transceiver identification code.”

The *Smethers* reference does not teach or suggest “a half-duplex communication device” as recited in independent claim 28. On page 3, lines 16-17, of the office action, the Examiner contends that the *Smethers* reference describes a “two-way (half-duplex) communication device controller [that] identifies the received ID code stored in memory.” Applicant respectfully traverses this contention. The *Smethers* reference describes two-way mobile communication devices. The two-way mobile communication device 100 disclosed in the *Smethers* reference is not a half-duplex communication device. The words “half-duplex” do not appear even once in *Smethers*. Hence, the *Smethers* reference does not teach or suggest “a half-duplex communication device” as recited in independent claim 28.

The *Smethers* reference does not teach or suggest a control device to “transmit the initiator identification code and the identification code directly to a transceiver identified by a transceiver identification code without the use of an intermediate network.” The *Smethers* reference discloses a mobile device 200 having a device identifier (ID) storage 232 that supplies a device ID to a Wireless Control Protocol (WCP) interface 228 that couples to a wireless network (col. 5, lines 8-12). The device ID identifies a specific code that is associated with mobile device 200 (col. 5, lines 12-14). For example, “the mobile device can couple to a proxy server (not shown) through wireless network where the device ID is used to locate a subscriber (user) account provided in the proxy server, and then the proxy server couples to a network such as the Internet” (col. 5, lines 13-17).

While the *Smethers* reference describes a device ID to identify a specific code and shows an address book in Figure 3C, the *Smethers* reference does not teach or suggest that the device ID and an identification code associated with a name in the address book are transmitted directly to a transceiver. In fact, the *Smethers* reference does not teach or suggest any form of communication between two mobile devices 200. The *Smethers* reference only describes a mobile device 200 that “easily and efficiently activate (or launch) resident applications” stored in the mobile device 200 (col. 3, lines 18-20). Hence, the *Smethers* reference does not teach or suggest a control device to “transmit the initiator identification code and the identification code directly to a transceiver identified by a transceiver identification code without the use of an intermediate network.”

Furthermore, the *Smethers* reference does not teach or suggest a control device to “receive acknowledgment information in response to the transceiver determining that the identification code matches the transceiver identification code.” Rather, the *Smethers* reference

discloses only a device ID code used for identifying a specific code that “enable[s] a user to facilitate easy user selection of one of the resident applications to activate” (col. 2, lines 27-28). In the *Smethers* reference, the communications device does not determine that the identification code matches the transceiver identification code. Moreover, the communications device does not receive acknowledgement information in response to the transceiver determining that the identification code matches the transceiver identification code. Hence, the *Smethers* reference does not teach or suggest a control device to “receive acknowledgment information in response to the transceiver determining that the identification code matches the transceiver identification code.”

The *Bridle* reference does not remedy the deficiencies of the *Smethers* reference. The *Bridle* reference was cited simply for the teaching of direct transmission without the use of an intermediate network (Figure 2). However, adding the teaching of the *Bridle* reference into the *Smethers* reference does not teach or suggest all the claim elements recited in independent claim 28. This is because neither reference, solely or in combination, teaches or suggests a control device that “transmit[s] the initiator identification code and the identification code directly to a transceiver identified by a transceiver identification code” and “receive[s] acknowledgment information in response to the transceiver determining that the identification code matches the transceiver identification code.” Therefore, independent claim 28 is patentably distinct from the combination of the *Smethers* and *Bridle* references.

Dependent Claims 29-31 and 34-39

Claims 29-31 and 34-39 depend from claim 28. Thus, these claims are patentably distinct from the combined references for the same reasons advanced above with respect to claim 28.

Independent Claim 40

Independent claim 40 recites “[a] communication device identified by an initiator identification code comprising:

a processor to

[A] receive an identification code stored in memory,

[B] automatically scan a plurality of channels for an available primary channel not used for telephone communication, and

[C] transmit via the available primary channel the initiator identification code and the identification code to at least one transceiver identified by a transceiver identification code.

The *Smethers* reference does not teach or suggest a processor to “automatically scan a plurality of channels for an available primary channel.” Rather, the *Smethers* reference refers to “selecting a content channel” from a list 352 or a list 378 of available content channels (col. 6, lines 35-67). Automatically scanning a plurality of channels is an operation performed by the processor. On the other hand, selecting a content channel from a list involves a user pressing soft key functions. Manually pressing soft key functions is not the same as automatically scanning a plurality of channels.

Furthermore, the *Smethers* reference does not teach or suggest that the device ID and an identification code associated with a name in the address book are transmitted directly to a transceiver. The *Smethers* reference does not teach or suggest any form of communication between two mobile devices 200. The *Smethers* reference only describes a mobile device 200 that “easily and efficiently activate (or launch) resident applications” stored in the mobile device 200 (col. 3, lines 18-20).

The *Bridle* reference does not remedy the deficiencies of the *Smethers* reference. The *Bridle* reference was cited simply for monitoring the available frequency channels (col. 4, lines

55-67). However, adding the teaching of the *Bridle* reference into the *Smethers* reference does not teach or suggest a processor to “transmit via the available primary channel the initiator identification code and the identification code to at least one transceiver identified by a transceiver identification code” as recited in independent claim 40. Therefore, independent claim 40 is patentably distinct from the combination of the *Smethers* and *Bridle* references.

Dependent Claims 41-45

Claims 41-45 depend from claim 40. Thus, these claims are patentably distinct from the combined references for the same reasons advanced above with respect to claim 40.

Independent Claim 46

Independent claim 46 recites “[a] system to provide half-duplex communication comprising:

[A] an initiator transceiver having an initiator identification code and configured to receive an identification code stored in memory, automatically scan a plurality of channels for an available channel and transmit, using the available channel, the initiator identification code and the identification code;

The *Smethers* reference does not teach or suggest an initiator transceiver configured to “automatically scan a plurality of channels for an available channel” and “transmit, using the available channel, the initiator identification code and the identification code.”

For the reasons discussed above for independent claims 28 and 40, independent claim 46 is patentably distinct from the combination of the *Smethers* and *Bridle* references.

Dependent Claims 47-54

Claims 47-54 depend from claim 46. Thus, these claims are patentably distinct from the combined references for the same reasons advanced above with respect to claim 46.

CONCLUSION

In view of the remarks above, it is respectfully submitted that all the pending claims are in condition for allowance, and such action is earnestly solicited.

If the Examiner believes a telephone interview will assist in the prosecution of this application, the undersigned attorney can be contacted at the listed phone number.

Very truly yours,

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